

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Mary E. Wolfe,)	
)	
Plaintiff,)	FILED: JUNE 24, 2008
)	08CV 3595
v.)	JUDGE DARRAH
)	No. MAGISTRATE JUDGE COX
)	EDA
MRS Associates, Inc., a New Jersey)	
corporation, and Sherman Acquisition,)	
L.P., a Delaware limited partnership,)	
)	
Defendants.)	<u>Jury Demanded</u>

COMPLAINT

Plaintiff, Mary E. Wolfe, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a declaration that Defendants' debt collection actions violated the FDCPA, and to recover damages for Defendants' violations of the FDCPA, and alleges:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here, and Defendants transact business here.

PARTIES

3. Plaintiff, Mary E. Wolfe ("Wolfe"), is a citizen of the State of Illinois, residing in the Southern District of Illinois, from whom Defendants attempted to collect a delinquent consumer debt that was owed originally to Washington Mutual, but now is allegedly owed to Defendant Sherman Acquisition, L.P.

4. Defendant, MRS Associates, Inc., (“MRS”), is a New Jersey corporation that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or telephone to collect, or attempt to collect, directly or indirectly, delinquent consumer debts, including delinquent consumer debts in the Southern District of Illinois. In fact, MRS was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Mrs. Wolfe.

5. Defendant, Sherman Acquisition, L.P., is a Delaware limited partnership (“Sherman”), that acts as a debt collector, as defined by § 1692a of the FDCPA, because it regularly uses the mails and/or telephone to collect, or attempt to collect, directly or indirectly, delinquent consumer debts, including delinquent consumer debts in the Southern District of Illinois. In fact, Defendant Sherman was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Mrs. Wolfe, through its agent, Defendant MRS.

6. Defendant Sherman is a debt scavenger that specializes in buying portfolios of defaulted consumer debts for pennies on the dollar, the full amount of which debts it then aggressively attempts to collect via collection firms, like Defendant MRS.

FACTUAL ALLEGATIONS

7. Mrs. Wolfe is an elderly woman who fell behind on paying her bills. One such debt, that she was unable to pay, was a debt she owed originally to Washington Mutual, which Defendant Sherman now allegedly owns. Accordingly, Mrs. Wolfe sought the assistance of legal aid attorneys at the Chicago Legal Clinic’s Legal Advocates for

Seniors and People with Disabilities program (“LASPD”), regarding her financial difficulties.

8. Via a letter dated May 14, 2007, Defendants sent Mrs. Wolfe an initial form collection letter demanding that she pay them for the Washington Mutual debt. A copy of this collection letter is attached as Exhibit A.

9. Accordingly, on May 30, 2007, Mrs. Wolfe’s LASPD attorney wrote a letter to Defendants that advised them that LASPD represented Mrs. Wolfe, and that Defendants should cease contacting Mrs. Wolfe, and cease all further collection activities. A copy of this letter is attached as Exhibit B.

10. Disregarding Mrs. Wolfe’s attorney’s letter, Defendants wrote directly to Mrs. Wolfe, via a letter dated December 4, 2007, and demanded that she pay them the Washington Mutual debt. A copy of this additional collection letter is attached as Exhibit C.

11. This greatly alarmed and worried Mrs. Wolfe. Accordingly, Mrs. Wolfe’s attorneys had to write to Defendants, again, and via a letter, dated January 7, 2008, they had to inform Defendants, again, that Mrs. Wolfe was represented by counsel and that their contact of her, along with their collection activities, had to cease. A copy of this letter is attached as Exhibit D.

12. All of the collection actions complained of occurred within one year of the date of this Complaint.

13. Defendants’ collection communications are to be interpreted under the “unsophisticated consumer” standard. See, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994).

COUNT I
Violation Of § 1692c(a)(2) Of The FDCPA --
Communicating With A Consumer Represented By Counsel

14. Plaintiff adopts and realleges ¶¶ 1-13.

15. Section 1692c(a)(2) of the FDCPA prohibits a debt collector from communicating with a consumer if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address. See, 15 U.S.C. § 1692c(a)(2).

16. Defendants knew that Mrs. Wolfe was represented by counsel in connection with this debt because her attorneys had informed Defendants, in writing, that she was represented by counsel as to this debt and that they should cease directly communicating with her. By sending their December 4, 2007 letter (Exhibit C) directly to Mrs. Wolfe, Defendants violated § 1692c(a)(2) of the FDCPA.

17. Defendants' violation of § 1692c(a)(2) of the FDCPA renders them liable for actual and statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

COUNT II
Violation Of § 1692c(c) Of The FDCPA --
Failure To Cease Collections After Direction To Cease
Communications And A Refusal To Pay

18. Plaintiff adopts and realleges ¶¶ 1-13.

19. Section 1692c(c) of the FDCPA prohibits a debt collector from communicating with a consumer after a direction to cease communications and from continuing to demand payment of a debt that the consumer has indicated that they refuse to pay. Here, the May 30, 2007 letter from Mrs. Wolfe's attorney (Exhibit B), directed Defendants to cease communications and informed Defendants that she

refused to pay the debt. By continuing to communicate to Mrs. Wolfe and continuing to demand payment, Defendants violated § 1692c(c) of the FDCPA

20. Defendants' violation of § 1692c(c) of the FDCPA renders them liable for actual and statutory damages, costs, and reasonable attorneys' fees. See, 15 U.S.C. § 1692k.

PRAYER FOR RELIEF

Plaintiff, Mary E. Wolfe, prays that this Court:

1. Declare that Defendants' debt collection actions violated the FDCPA;
2. Enter judgment in favor of Plaintiff Wolfe, and against Defendants, for actual and statutory damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

JURY DEMAND

Plaintiff, Mary E. Wolfe, demands trial by jury.

Mary E. Wolfe,

By: /s/ David J. Philipps
One of Plaintiff's Attorneys

Dated: June 24, 2008

David J. Philipps (Ill. Bar No. 06196285)
Mary E. Philipps (Ill. Bar No. 06197113)
Philipps & Philipps, Ltd.
9760 S. Roberts Road
Suite One
Palos Hills, Illinois 60465
(708) 974-2900
(708) 974-2907 (FAX)
davephilipps@aol.com

Return Address:

MRS ASSOCIATES, INC.

3 EXECUTIVE CAMPUS, SUITE 400

CHERRY HILL NJ 08002

JUDGE DARRAH

MAGISTRATE JUDGE COX

EDA



Office Hours

Monday - Thursday	8am - 9pm	ET
Friday	8am - 5pm	ET
Saturday	8am - 12pm	ET

1-877-508-6304

MAY 23 2007

MARY E WOLFE

Payment To / Correspondence To:

MRS ASSOCIATES, INC.

3 EXECUTIVE CAMPUS, SUITE 400

CHERRY HILL NJ 08002

May 14, 2007

CLIENT ACCT#

04527

MRS ACCT#

4088

ACCT BALANCE

\$6,147.78

RE: Sherman Acquisition, LP

IMPORTANT: TO RECEIVE PROPER CREDIT BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE: Sherman Acquisition, LP

PREVIOUS CREDITOR: WASHINGTON MUTUAL

CLIENT ACCT#: 04527

MRS ACCT#: 4088

ACCOUNT BALANCE: \$6,147.78

Dear MARY E WOLFE,

Sherman Acquisition, LP has purchased the above referenced account from the above referenced Previous Creditor. Sherman has placed your account with this agency for collection. Sherman has advised us that interest will continue to accrue on your account as provided for in your agreement with the original creditor.

Your account is seriously past due and must be paid in full or we will proceed with appropriate collection activity. Please remit the entire balance due to our office using the return envelope provided. If you have any questions or wish to discuss your account with one of our representatives, please call us at the toll free number listed above. As for the date of this letter, you owe \$6,147.78. Because interest may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, write the undersigned or call 1-877-508-6304.

IMPORTANT CONSUMER INFORMATION

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Sincerely,

Will Adams

Will Adams

Sr. Director 1-877-508-6304

MRS Associates, Inc.

EXHIBIT

A

This is an attempt to collect a debt and any information obtained will be used for that purpose.

This communication is from a debt collection agency.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Legal Advocates for Seniors and People with Disabilities

205 W. Monroe, 4th Floor, Chicago, IL 60606

312-263-1633

Fax: 312-263-1637

E-Mail: info@mylegaladvocates.org

May 30, 2007

MRS Associates Inc.
Card Member Services
6530 W. Campus Oval
New Albany, OH 43504

Re: Mary & Donald Wolfe
Consumer's account: [REDACTED] 4527

LASPD file number: [REDACTED]

Dear Sir or Madam:

I am writing to inform you that this office now represents the above-named individual(s) who has recently received a debt collection communication from your company. Legal Advocates for Seniors and People with Disabilities (LASPD) is a nationwide program of the Chicago Legal Clinic, Inc., a not-for-profit law office providing low-cost legal services to the public.

I am requesting that you review the attached affidavit from our client(s) and cease all further communication with our client(s). As you will see, all of the income of our client(s) is protected from attachment by Federal law. We are therefore requesting that you accept the validity of the affidavit and cease all further collection activities.

If you have any questions, please contact Legal Advocates for Seniors and People with Disabilities at 312-263-1633.

Very Truly Yours,

Jeff Whitehead
Supervising Attorney

Enclosures





Return Address:

MRS ASSOCIATES, INC.
3 EXECUTIVE CAMPUS, SUITE 400
CHERRY HILL NJ 08002

JUDGE DARRAH

MAGISTRATE JUDGE COX

EDA



MRS Associates, Inc.
6530 W. Campus Oval
New Albany OH 43504
1-888-274-9847

Office Hours:
Monday - Thursday 8am - 8pm ET
Friday 8am - 5pm ET
Saturday 8am - 12pm ET

REC'D DEC 18 2007

MARY E WOLFE

Payment To / Correspondence To:

MRS ASSOCIATES, INC.
3 EXECUTIVE CAMPUS, SUITE 400
CHERRY HILL NJ 08002

#2

December 4, 2007

CLIENT ACCT #: 4527

MRS ACCT #: 7731

RE: Sherman Acquisition, LP

✗ IMPORTANT: TO RECEIVE PROPER CREDIT, BE SURE TO ENCLOSE THIS PORTION WITH YOUR PAYMENT. ✗
SEE REVERSE SIDE FOR CREDIT CARD AND WESTERN UNION PAYMENT INFORMATION

RE: Sherman Acquisition, LP
PREVIOUS CREDITOR: WASHINGTON MUTUAL
CLIENT ACCT#: 4527
MRS ACCT#: 7731
ACCOUNT BALANCE: \$8,553.59

Dear MARY E WOLFE,

Sherman Acquisition, LP has purchased the above referenced account from the above referenced Previous Creditor. Sherman has placed your account with this agency for collection. Sherman has advised us that interest will continue to accrue on your account as provided for in your agreement with the original creditor.

Your account is seriously past due and must be paid in full or we will proceed with appropriate collection activity. Please remit the entire balance due to our office using the return envelope provided. If you have any questions or wish to discuss your account with one of our representatives, please call us at the toll free number listed above.

As of the date of this letter, you owe \$8,553.59. Because interest may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, write the undersigned or call 1-888-274-9847.

IMPORTANT CONSUMER INFORMATION

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

Sincerely,

MRS ASSOCIATES INC.
1-888-274-9847

This is an attempt to collect a debt and any information obtained will be used for that purpose.
This communication is from a debt collection agency.

PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION.**EXHIBIT**

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Legal Advocates for Seniors and People with Disabilities

205 W. Monroe, 4th Floor, Chicago, IL 60606

312-263-1633

Fax: 312-263-1637

E-Mail: info@mylegaladvocates.org

COPY

January 07, 2008

MRS Associates Inc.
Card Member Services
6530 W. Campus Oval
New Albany, OH 43504

Re: Mary & Donald Wolfe
Consumer's account: [REDACTED] 4527

LASPD file number: [REDACTED]

Dear Sir or Madam:

Recently, LASPD sent you a letter directing you to cease all communication with our client, Mary & Donald Wolfe. The letter further explained that the assets and income of our client were judgment-proof under State and/or Federal Law.

At that time, we requested that you review our client's affidavit of income and expenses, which were sent to you with the letter. We further requested that after your review of our client's sworn statement that you cease further collection activity. Finally, we invited you to contact our office if you had any questions.

Notwithstanding our requests, you have continued to contact our client and demand payment for debts with the full knowledge that our client's income is protected by law. Such conduct not only constitutes bad faith on your part, but it also violates numerous provisions of both State and Federal Fair Debt Collection Laws.

You are hereby directed to cease any and all attempts to communicate with our client and to direct any further inquiries to this office. Failure to abide by this demand may result in legal action seeking all remedies provided by law.

Very Truly Yours,

Jeff Whitehead
Supervising Attorney

